

LABOUR DEPARTMENT

The 29th November, 1994.

No. 14/13/87-6Lab/944.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar in respect of the dispute between the workman and the management of M/s The Transport Commissioner, Haryana, Chandigarh *versus* Dhan Singh

BEFORE SHRI B. R. VOHRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, HISAR

Reference No. 266 of 1990

Date of receipt: 21-3-89

Date of decision: 2-11-94

SHRI DHAN SINGH, CONDUCTOR, S/O SOHAN LAL, VILLAGE KALIANA,
TEHSIL DADRI, DISTRICT BHIWANI

.. Applicant

versus

1. TRANSPORT COMMISSIONER, HARYANA, CHANDIGARH

2. GENERAL MANAGER, HARYANA ROADWAYS, BHIWANI .. Respondent-Management

Present :

Shri Krishan Sharma for the workman.

Shri Jagdish Pawar for the management.

AWARD

In exercise of powers conferred by sub-clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (for short the Act) the Governor of Haryana has referred the following dispute, between Dhan Singh and the above, mentioned management for adjudication to this Court,—*vide* Labour Department letter No. Bwn.-47-89/11983-89, dated 15th March, 1989 :—

Whether the termination of services of Shri Dhan Singh, is justified and in order ? If not, to what relief he is entitled ?

2. The workman has stated that he was appointed as Conductor in Haryana Roadways, Bhiwani on 14th January, 1981. It is claimed that a false charge-sheet dated 17th September, 1987 was served upon him and after rejecting his reply as unsatisfactory, a domestic enquiry was ordered by the management. According to the workman, the Enquiry Officer acted as a stooge of the management and the enquiry conducted by him, was not just and fair and was a false. According to the workman, no proper opportunity was given to him to cross-examine the witness and the enquiry was conducted in violation of the principles of natural justice. Subsequently, on the basis of the enquiry report, his services were terminated,—*vide* order dated 29th February, 1988. After the workman raised demand notice, the matter was referred to this Court for adjudication,

3. The management, in its written statement, pleaded that the services of the workmen were terminated after holding fair and proper domestic enquiry. According to the management, the workman was given opportunities by the Enquiry Officer, not only to cross-examine the witness, but also to produce defence and that there was no violation of principles of natural justice. It was therefore, stressed that the services of the workman were terminated in accordance with law and after holding just and proper domestic enquiry.

4. On the pleadings of the parties, the following issues were framed on 15th September, 1989 by the then Presiding Officer, Labour Court, Rohtak.

1. Whether the management has lost confidence in the workman ?

(2) Whether the domestic enquiry held by the management is fair and proper ?

(3) As per terms of reference.

5. The issue No. 2 regarding domestic enquiry was treated as preliminary issue. The parties led evidence on preliminary issue. I have heard Shri Shri Kishan Sharma, authorised representative of the workman and Shri Jagdish Pawar, ADA of the management and have gone through the case file. My findings on preliminary issues are as under.

Issue No. 2:

6. In order to prove this issue, the management examined Om Parkash clerk as MW-1 and Kehar Singh Ahlawat, Enquiry Officer as MW-2. While Om Parkash, MW-1 has proved the copy of charge-sheet served upon the workman as also his reply as Ex. M-1 and Ex. M-2, respectively. Kehar Singh, MW-2 has deposed that the workman had participated in the enquiry. He testified the proceedings of the enquiry as Ex. M-12 and proved the copy of enquiry report as Ex. M-3. He explained that the statements of witnesses were recorded in his presence and in the presence of the workman.

7. Dhan Singh, who appeared as MW-1, has deposed that before the Enquiry Officer, he had requested for assistance of his colleague, but the said request was declined. He also stated that he was not given full opportunity to cross-examine the witnesses. In cross-examination, he admitted that he put number of questions to the Inspector produced by the management before the Enquiry Officer.

8. A perusal of the proceedings of the enquiry Ex. M-12, would show that K. L. Wahi, Chief Inspector, examined by the management, was duly cross-examined by the workman and thereafter, Dhan Singh made his own statement before the Enquiry Officer. He, thereafter, sought 10 days time to produce his defence but it was observed by the Enquiry Officer that despite opportunity having been granted to the workman, the workman did not produce any defence, for which the case was adjourned from 15th December, 1987 to 8th January, 1988. This was followed by the enquiry report, copy of which is Ex. M-8. It, therefore, can not be said that the workman was denied opportunity to cross-examine the witness or to produce his defence and there was, thus, no violation of principles of natural justice, as claimed by the workman. It, therefore, necessarily follows that enquiry conducted in this case, was just and proper and as the charge of embezzlement stood proved against the workman, the management was justified in terminating his services.

9. As a result of above discussion, I hold that the domestic enquiry conducted by the management was just and proper and the preliminary issue is answered in favour of the management.

10. As the services of the workman were terminated after holding a just and proper domestic enquiry, no fault can be found with the impugned order of termination and the workman is not entitled to any relief in this case. The reference is answered accordingly, with no order as to costs.

The 2nd November, 1994.

B. R. VOHRA,

Presiding Officer,

Industrial Tribunal-cum-Labour Court,
Hisar.

Endst. No. 2328, dated the 7th November, 1994.

A copy, with spare copy, is forwarded to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh for necessary action.

B. R. VOHRA,

Presiding Officer,

Industrial Tribunal-cum-Labour Court,
Hisar.